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**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**April 28, 2004**

**IN RE:**

**TARIFF TO ESTABLISH THE WIRELESS ANSWERS  
PROMOTION – TARIFF NUMBER 2003-1036**

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**DOCKET NO.  
03-00554**

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**ORDER ALLOWING TARIFF TO TAKE EFFECT**

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This matter came before Chairman Deborah Taylor Tate, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the “TRA” or “Authority”), the voting panel assigned to this Docket, at a hearing held on January 8, 2004 for consideration of BellSouth Tariff 2003-1036 to Establish the Wireless Answers Promotion.

**Background**

This Tariff, filed with the TRA by BellSouth Telecommunications, Inc. (“BellSouth”) on September 19, 2003 with a proposed effective date of October 21, 2003, offers a bundle of regulated local service and non-regulated Cingular wireless service with a discount on the wireless service, thirty-two percent of which is to be funded by BellSouth’s regulated operations. BellSouth has declined to offer for resale the telecommunications services included in the Bundle, except as provided for in its General Subscriber Services Tariff, claiming that neither the bundle of telecommunications and non-telecommunications services nor the individual telecommunications services included therein need to be available for resale at the discounted bundled rate.

On October 16, 2003, the Consumer Advocate and Protection Division of the Office of the Attorney General (“CAPD”) filed a petition to intervene in this Docket, taking issue with BellSouth’s position on its resale obligations. The Tariff was suspended for forty-five days on October 21, 2003

and was suspended indefinitely on November 24, 2003 to permit deliberations and a decision on the issue of federal resale requirements in TRA Docket No. 03-00442. At the December 15, 2003 Authority Conference, the Panel unanimously agreed to additional briefing on federal resale requirements raised in Docket Nos. 03-00554 and 03-00624 and to schedule the issue for consideration at the next Authority Conference. On January 2, 2004, a *Notice of Convening Panel for Consideration of Tariffs* was issued to permit the voting Panel to consider the tariff filed in each Docket on January 8, 2004.

### **January 8, 2004 Hearing**

The Panel addressed BellSouth's resale obligations under federal law when offering to consumers a bundle of telecommunications and non-telecommunications services, as described above. The Panel recognized an apparent agreement between the Parties that BellSouth is authorized under federal law to provide this type of bundled service offering<sup>1</sup> and unanimously agreed that bundled service offerings benefit Tennessee consumers as well as the overall competitive environment for telecommunications services. The Panel determined that a prohibition against the bundling of telecommunications and non-telecommunications services would conflict with the position of the Federal Communications Commission ("FCC") and would also be contrary to the interests of consumers.

Regarding the authority to offer a bundle of telecommunications and non-telecommunications services, the Panel did not address the resale obligations of incumbent local exchange carriers.<sup>2</sup> A majority of the Panel determined that consideration of the resale issue at this

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<sup>1</sup> *In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace*, FCC 01-98 (*Report and Order*) 16 F C C R 7418 (March 30, 2001)


<sup>2</sup> 47 U.S.C. § 251(c)(4) (requiring all incumbent local exchange carriers "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers"), *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, FCC 96-325 (*First Report and Order*) 11 F C C R 15,499, ¶ 877 (August 8, 1996) (extending resale obligation to "retail services that are actually composed of other retail services, i.e., bundled service offerings")

time would be premature since no reseller has expressed an interest in reselling the Tariff. For this reason, the Majority<sup>3</sup> voted to allow the Tariff to take effect and to consider BellSouth's resale obligations only upon complaint from a reseller alleging that the telecommunications services at issue were not available for resale at the discounted bundled rate. The Majority decided that, in the meantime, consumers should have access to the tangible benefits of discounted service offerings and that resale issues are appropriately addressed in negotiated agreements between telecommunications carriers.

**IT IS THEREFORE ORDERED THAT:**

BellSouth Tariff 2003-1036 to establish the Wireless Answers Promotion may take effect immediately

  
Deborah Taylor Tate, Chairman

  
Pat Miller, Director

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Ron Jones, Director

<sup>3</sup> Director Jones did not vote with the Majority